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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/612,254   | 07/02/2003  | Michael Lambright    | 121046-001          | 3335             |
| 35684  | 7590        | 02/28/2006           | EXAMINER            |                  |
| BUTZEL LONG<br>350 SOUTH MAIN STREET<br>SUITE 300<br>ANN ARBOR, MI 48104 |             |                      | ADAMS, GREGORY W    |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3652                |                  |

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/612,254 | <b>Applicant(s)</b><br>LAMBRIGHT, MICHAEL |  |
|                              | <b>Examiner</b><br>Gregory W. Adams  | <b>Art Unit</b><br>3652                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 8-9 & 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***General Comments***

This Applicant has been transferred to Gregory W. Adams.

### ***Response to Appeal Brief***

In view of the Appeal Brief filed on December 2, 2005, PROSECUTION IS  
HEREBY REOPENED. New grounds of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the  
following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply  
under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed  
by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and  
appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth  
in 37 CFR 41.20 have been increased since they were previously paid, then appellant  
must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by  
signing below:

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "central axis" of the support arm must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 1 & 9 are objected to because of the following informalities: With respect to claims 1 & 9, a cooperating tubular assembly is confusing given it comprises coplanar plates. For purposes of examination, except for the upper and lower guide plates it is

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presumed that a cooperating tubular assembly is irrelevant. Appropriate correction is required.

Claims 2-7 & 10-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 9, 11, 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1 & 9, if Applicant's apparatus is not unlocked, how do upper and lower plates cause a support arm to rotate, i.e. there must be an external force to overcome frictional forces, however minimal, to initiate rotation. Thus, its unclear how two inanimate objects lacking motive ability can move something. Instead of "whereby relative...", recommended language may include --wherein rotating a support arm about a common axis includes relative rotational movement of the upper and lower guide plates about said common axis and support arm rotation about the central axis--.

With respect to claims 3 & 11, each recite a second "central axis". Is this the same as a support arm central axis as recited in independent claims 1 & 9. It is recommended renaming the second central axis to avoid confusion.

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With respect to claims 18-20, its unclear whether Applicant is claiming a spare tire carrier or a spare tire carrier in combination with respectively a motor vehicle, non-motor vehicle, towed vehicle, and camber and a trailer.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

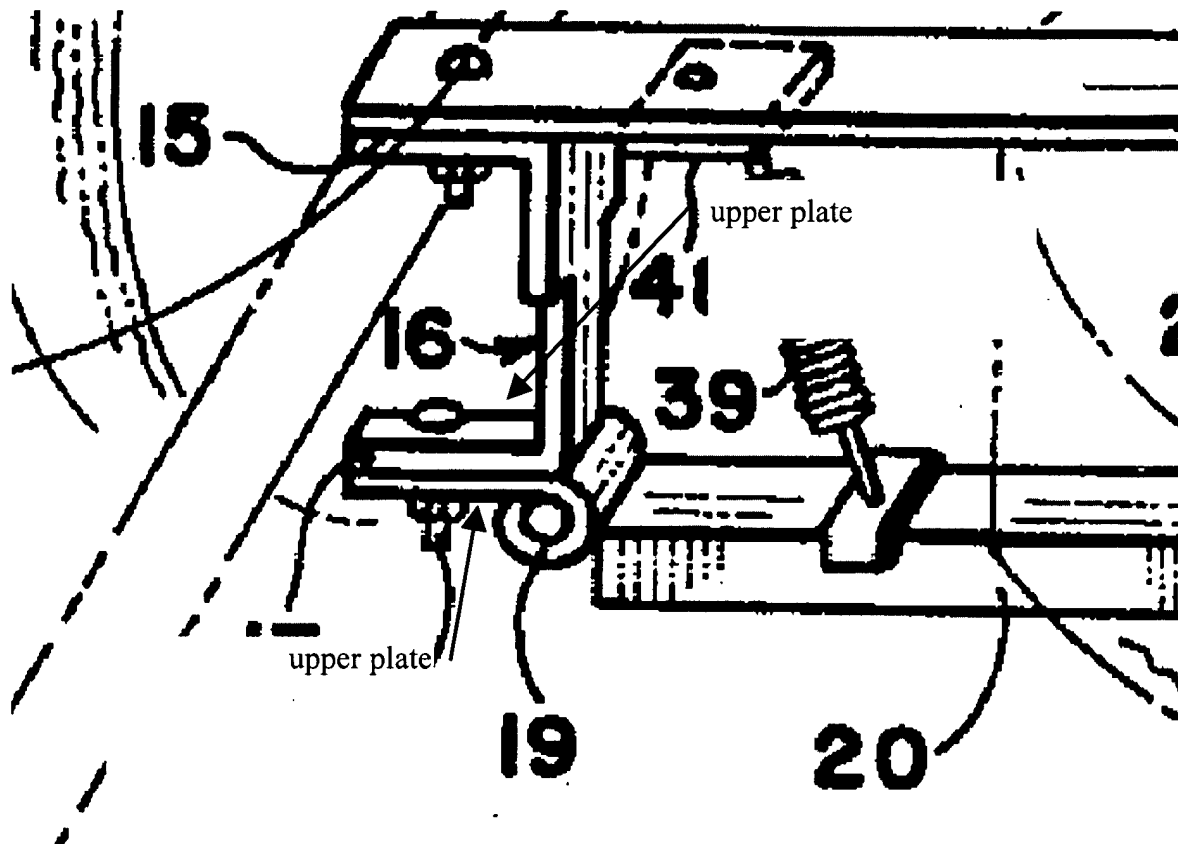
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8-9 & 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Krakow (US 4,264,260).

With respect to claims 1 & 9, Krakow discloses a spare tire carrier comprising a support arm 20, 21 having a central axis (indicated generally as 19), latch member, upper and lower planar guide plates (see FIG. 1 reproduced below) having a common axis whereby relative rotational movement of said upper and lower plates pivots a support arm 21 about a upper and lower planar guide plates and rotates about a central axis.

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With respect to claims 8 & 16, Krakow discloses a latch mechanism (indicated generally as 33).

With respect to claim 17, Krakow discloses structure 45 (for the latch mechanism 33 to engage).

With respect to claim 18, Krakow discloses a vehicle comprising a non-motor vehicle 10.

With respect to claim 19, Krakow discloses a towed vehicle 10.

With respect to claim 20, Krakow discloses a trailer 10.

***Allowable Subject Matter***

Claim 2-7 & 10-17 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA

  
**EILEEN D. LILLIS**  
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